IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

Crl.Rev.Pet.No.532 of 1998

CRL.A.31/1992 OF THE COURT OF THE SESSIONS JUDGE, MANJERI.

CC.245/1991 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, PERINTHALMANNA

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PETITIONER:-

T.M.BALAN, S/O.UNNIKELU,
THODIYARAMUTTATH HOUSE,
KARUVAMBRAM, MANJERI.

BY ADV. SRI.A.INEES

RESPONDENT:-

THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.BALI, C.J.

Crl. R.P. No.532 of 1998

Dated this the 20th day of December, 2006.

ORDER

V.K.Bali,C.J.(Oral)

Petitioner after trial was found guilty under Sections 279 and 304(A) of the Indian Penal Code and sentenced to undergo simple imprisonment for one year under Section 304(A) IPC and to pay a fine of Rs.1000/- and in default of payment of fine to undergo simple imprisonment for three months more under Section 279 IPC, vide order dated 20th March, 1992 passed by the Judicial First Class Magistrate, Perintalmanna. The appeal preferred against the order aforesaid was dismissed by the learned Sessions Judge, Manjeri vide order dated 31st December, 1997. It is against these two orders that the present revision has been filed.

2. Briefly, the petitioner was put on trial on the allegation that on 12.7.1991 at about 9.55 A.M. he drove a stage carriage bus through the Perintalmanna – Palghat public road in a rash and negligent manner and in high speed so as to endanger human life and it came to the road in front of the Police Aid Post within the Municipal Bus Stand and there it got jammed

with another bus belonging to Arambham Company which was parked in the bus stand and a passenger named Chathan was sandwiched in between the two buses and due to the crush injuries he succumbed while under treatment at the Medical College Hospital, Calicut.

3. Learned counsel for the petitioner first contended that Chathan died being crushed between the two buses and it is only the petitioner who was the driver of one bus was made accused and prosecuted whereas the other bus driver was not even made an accused. This argument is only stated to be rejected. The other bus was stationary and may be even the driver was not in the bus. For rash and negligent driving of the petitioner the driver of the other bus who as mentioned above may not be even in the bus could not be made an accused and prosecuted. Learned counsel then contends that the occurrence pertains to the year 1991 and a period of about 15 years has gone by during which the petitioner had to face protracted trial and therefore he should be let off on payment of fine. I do not find this contention also to be well founded. By the rash and negligent driving of the petitioner a valuable life was lost. The protracted trial may be a ground for reduction of sentence,

but surely, it may not be enough in the facts of this case to let off the petitioner by imposing fine only. While upholding the order of conviction against the petitioner, considering the entire facts and circumstances of the case, I reduce the sentence to simple imprisonment for six months for offence under Section 304(A) of the Indian Penal Code. To that extent the order passed by the courts below is modified and the criminal revision petition is partly allowed.

V.K. BALI,
Chief Justice.

vns.